

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MANUEL ADOLFO ARAUJO

Claim No. CU-4652

Decision No. CU-6838

Under the International Claims Settlement
Act of 1949, as amended

Petition to Reopen; Order of Dismissal dated and entered January 4, 1969.

FINAL DECISION

This claim against the Government of Cuba, opened by the Commission on behalf of the claimant, was dismissed by Order of the Commission No. CU-445 dated January 4, 1969, for the reason that claimant, upon his return from Cuba to the United States in 1968, failed to prosecute the claim.

Subsequently, claimant requested that the claim be reopened and submitted supporting evidence, including documentation showing that he has been a national of the United States since birth.

In his claims application, claimant listed the following losses:

Land	\$17,500.00
Buildings	12,857.00
Personal property	<u>47,000.00</u>
Total	\$77,357.00

Upon due consideration, claimant's request for the reopening of the claim is granted, the Order of Dismissal is set aside, and the following decision will be entered.

(1) Property owned jointly by claimant and his wife:

The record shows that claimant and his wife Eva Mercedes, nee Lima, owned jointly, under the community property laws of Cuba, a piece of vacant land, designated as parcel No. 8, block No. 12 of the residential zone of Santa Catalina, Municipality of Havana. The land parcel had an area of 350 square meters, facing Avenida del Este, was acquired in 1964 for a purchase price of \$12,500.00, and was free of encumbrances.

The record further shows that claimant and his wife owned the following property jointly:

- | | |
|---|------------|
| (1) a 1950 Chevrolet passenger automobile valued by claimant | \$1,500.00 |
| (2) a motor boat built in 1938 valued by claimant | 2,000.00 |
| (3) a promissory note secured by a mortgage valued by claimant | 2,000.00 |
| (4) a shotgun valued by claimant | 250.00 |
| (5) a savings account with the Banco Nacional de Cuba, Zanja branch, in the amount of | 3,919.37 |
| (6) household goods (furniture, fixtures, appliances and the like) valued by claimant | 3,365.40 |

The Cuban Government published in its Official Gazette of December 6, 1961 Law 989 which effectively confiscated all assets, real and personal property, rights, shares of stock, bonds and other property of persons who left Cuba. The Commission, therefore, finds that claimant's property described above was taken by the Government of Cuba on February 7, 1968, the date of claimant's departure from Cuba for the United States (see also Claim of Wallace Tabor et al., Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

Although the claim was timely filed, and whereas it appears that claimant's above loss did not arise until 1968, subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period (see Claim of Vivian Lopez Morales, Claim No. CU-8739).

Section 504 of the Act provides that a claim shall not be considered under Section 503(a) of the Act, unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The record indicates that claimant's wife Eva Mercedes, nee Lima, was not a national of the United States on the date of the loss and therefore her one-half interest in the property mentioned above cannot be considered here.

The Commission finds that claimant's valuation of the property is reasonable and equitable, but that the tangible personal property was subject to depreciation.

Consequently, at the time of taking the value of the property was:

Chevrolet automobile	\$1,500.00	
Motor boat	2,000.00	
Shotgun	250.00	
Household goods	<u>3,365.40</u>	
	\$7,115.40	
Less depreciation	<u>1,778.85</u>	
		\$ 5,336.55
Land parcel	12,500.00	
Promissory note secured by mortgage	2,000.00	
Savings account	<u>3,919.37</u>	
Total value of property		\$23,755.92
One-half interest thereof owned by claimant		\$11,877.96

The Commission concludes that claimant suffered a loss with respect to the property discussed under this heading, in the amount of \$11,877.96.

(2) Property owned solely by claimant:

The evidence shows that claimant owned the following property as sole owner, having acquired the same either by inheritance from his mother, a national of the United States, or prior to his marriage.

(a) A 1/7th interest in a house located at No. 813 Virtudes in the city of Havana, consisting of a two-story building made of reinforced concrete, standing on a lot measuring 445 square meters. The property was encumbered with a first mortgage of \$30,000.00 in favor of Romar S.A. and with a second mortgage of \$8,000.00 in favor of the holder in due course of a promissory note issued in 1956 by claimant's mother, then the owner of the building. The record indicates that the mortgages were given for the purpose of financing the reconstruction and modernization of the building which was used for business and residential purposes and which, in 1956 was appraised, after the remodeling, in the amount of \$100,000.00.

(b) Two building lots designated as Nos. 1 and 2 of blocks 16 and 57 located in the section Calvario, precinct of Mantilla, within the city limits of Havana. The two lots had an aggregate area of 300 square meters and were purchased in 1943 by the claimant for the recorded purchase price of \$250.00.

The Commission finds that the building at No. 813 Virtudes was taken by the Government of Cuba pursuant to the Law on Urban Reform on October 14, 1960; and that the two building lots in Calvario were subject to Cuban Law 989 (supra) and taken on February 7, 1968.

With respect to the value of this real property, the Commission finds that the property at 813 Virtudes was worth \$100,000.00 less mortgages which must be deducted \$38,000.00, leaving a net value of \$62,000.00; that claimant's 1/7th interest in this item of claim had a value of \$8,857.14; and that the two building lots in Calvario were worth \$5,000.00; claimant's total loss under this heading was therefore \$13,857.14.

With respect to the interest claimant had in the business partnership "Casa Araujo" a review of the documentation discloses that the data is not sufficient to establish the value of the business at the time of its taking (see Claim of Ricardo Gonzalo Araujo, Claim No. CU-2600). In the absence of evidence to show the time of intervention of the business enterprise and of its value at such time, the Commission is constrained to deny this item of the claim.

RECAPITULATION

Summarizing, claimant sustained the following losses:

(1) In property jointly owned with his wife	\$11,877.96
(2) In property solely owned by claimant	<u>13,857.14</u>
Total	\$25,735.10

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of the loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered as follows:

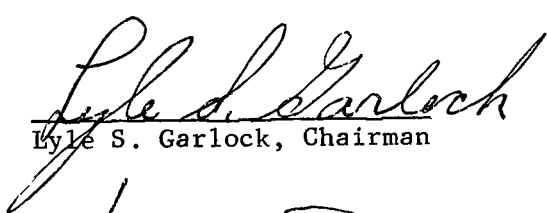
<u>FROM</u>	<u>ON</u>
October 14, 1960	\$ 8,857.14
February 7, 1968	<u>16,877.96</u>
	\$25,735.10

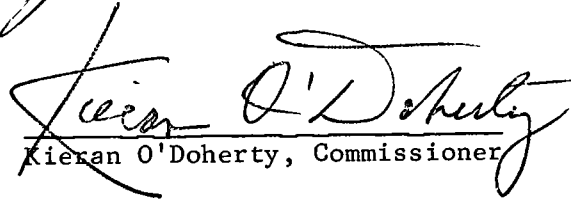
CERTIFICATION OF LOSS

The Commission certifies that MANUEL ADOLFO ARAUJO suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Five Thousand Seven Hundred Thirty-Five Dollars and Ten Cents (\$25,735.10) with interest thereon at the rate of 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.